

Notice of Allowability

Application No.

09/737,544

Examiner

Shengjun Wang

Applicant(s)

PEPYS, MARK B.

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 08/31/2007&10/03/2007.
2. ☒ The allowed claim(s) is/are 59,60,62-65 and 67-69.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

SHENGJUN WANG
PRIMARY EXAMINER

Shengjun Wang
Primary Examiner
Art Unit: 1617

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DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Angela M. Collison on October 23, 2007.

Amend the application as follow:

In the claims;

In Claim 62, replace "61" with "59";

In Claim 67, replace "66" with "64";

In claim 68, replace "66" with "67".

Reasons for Allowance

The amendments filed August 31, 2007 and the supplemental amendments filed October 3, 2007 have been entered and fully considered. The declaration by Dr. Jon Cooper submitted 09/05/2007 has been fully considered. The amendments, remarks and the declaration, as a whole, are persuasive to overcome the rejections set forth in the prior office action.

The claims as pending are directed to the a method of reducing the tissue damage *caused by C-reactive protein in a patient in need thereof*, comprising administering to the patient the phosphoryl choline derivatives herein defined. The claims would over come the rejections under 35 U.S.C. 112, first paragraph as set forth in the prior office action as the claims limit the scope

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of the compounds useful in the method and limit the method for reducing damage. Further, the phosphorylcholine derivatives herein are structurally distinct from those disclosed by Yedgar et al. Also the prior art as a whole merely shows that CRP may be related to atherosclerosis, but provide no further guidance as to employ the particular CRP antagonist for reducing damage caused by CRP. As explained by the inventor, Dr. Pepys during the interview on August 14, 2007, some, not all, of the patients who suffer stroke or cardiac infarction would maintain an elevated level of CRP after the initial stage, which would cause damage to tissue. (see the presentation filed 08/31/2007). The claims drawn to reducing damage caused by *C-reactive protein in a patient in need* thereof would have not been obvious as the prior art lack sufficient guidance, or direction to reach the particular limitation as herein claimed.

The examiner's amendments are to correct improper dependency occurred after the supplemental amendments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shengjun Wang whose telephone number is (571) 272-0632. The examiner can normally be reached on Monday to Friday from 7:00 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan, can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shengjun Wang
Primary Examiner
Art Unit 1617


SHENGJUN WANG
PRIMARY EXAMINER